

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RANDOLPH S. TANGLE,	:	
	:	
Plaintiff	:	
	:	
v.	:	C.A. No. 05-114 ERIE
	:	
	:	
CITY OF ERIE, et al.,	:	
	:	
Defendants.	:	

**MOTION TO DISMISS PURSUANT TO Fed. RCP 12(b)(6)**

AND NOW, comes the defendants, John Doe, Judge's Law Clerk, and Jim Muscarella, Chief Court Reporter, by and through their counsel, Matthew J. McLaughlin, Esquire, Assistant Solicitor for Erie County, and files this motion to dismiss pursuant to Fed. RCP 12(b)(6), stating in support thereof the following:

1. Plaintiff's action should be dismissed for failure to state claims against defendants upon which relief can be granted because plaintiff's claims are barred by the doctrines of judicial immunity, res judicata and collateral estoppel; the complaint fails to set forth a viable claim pursuant to 42 U.S.C. § 1983 upon which relief can be granted and plaintiff's claim is barred by the statute of limitations.

WHEREFORE, it is respectfully requested that this Honorable Court grant the motion to dismiss pursuant to Fed. RCP 12(b)(6), filed on behalf of John Doe, Law Clerk, and Jim Muscarella, Chief Court Reporter.

Respectfully submitted,

By: Matthew J. McLaughlin  
Matthew J. McLaughlin, Esq.  
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Counsel for defendants,  
John Doe, Judge's Law Clerk,  
and Jim Muscarella, Chief Court  
Reporter

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CITY OF ERIE, et al.,	:	
	:	
Defendants.	:	

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within motion to dismiss pursuant to Fed. RCP 12(b)(6) was mailed to the following individuals listed below on this the 12<sup>th</sup> day of September, 2005, via United States, First Class mail, postage prepaid, in accordance with the applicable Rules:

Honorable Susan Paradise Baxter

Kenneth J. Gamble, Esquire

Heather Purcell, Esquire

Randolph S. Tangle

Respectfully submitted,

By: Matthew J. McLaughlin  
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Counsel for defendants,  
John Doe, Judge's Law Clerk,  
and Jim Musceralla, Chief Court  
Reporter